REMARKS

The Office Action mailed June 30, 2005 has been carefully considered and it is respectfully requested that the application be reconsidered in view of the amendments made to the claims and for the remarks herein.

Claims 1-15 are pending and stand rejected.

Claims 1, 8, 9 and 11 have been amended. Claims 2-7 and 12-15 have been cancelled.

Claims 5, 6, 8, 9, 14 and 15 are objected-to for containing informalities.

Applicants, through their attorney (hereinafter, applicant), wish to thank the examiner for his observation and have either amended or cancelled appropriate ones of the aforementioned claims to correct, or remove from further consideration, the informalities noted.

Having amended or cancelled claims appropriately, applicant submits that the reason for the objection has been overcome and respectfully requests that the objection be withdrawn.

Claims 1-15 stand rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out the invention claimed. More specifically, the term "predetermined" in claims 1 and 11 render the claims indefinite.

Applicant respectfully disagrees with the reason for the rejection. However, the claims have been amended to remove the objected-to term "predetermined." In addition, other claims including the objected-to terms have been cancelled.

Having removed the objected-to term "predetermined" from the remaining claims, it is submitted that the reason for the objection is no longer applicable and the amended claims are in an allowable form. Applicant respectfully requests that the objection be withdrawn and independent claims 1 and 11 allowed.

With regard to the remaining claims, these claims depend from the independent claims and are also allowable by virtue of their dependence upon an allowable base claim.

Claims 1-10 are rejected under 35 USC 101 as the claimed invention is directed to non-statutory subject matter. The Office Action states "[r]egarding claim 1, ... Both the steps mentioned in claim 1 can be implemented in software alone, thus rendering claim1 to be not tangible."

Applicant respectfully disagrees with the reason for rejecting the claims. However, applicant has amended claim 1 to recite that the system is operable on a computer system. No new matter has been added. Support for the amendment may be found in at least paragraph [0033], which states, in part, "[t]he packager may be using the process of the present invention within a system 10 as shown in Figure 1. The packager would be entering the necessary inputs ... at computer or server 14 that contains the process 16."

Having amended claim 1 to recite that the system claimed is executed on a computer system, it is submitted that the reason for the rejection has been overcome and claim 1 is in an allowable form. Applicant, therefore, respectfully requests that the rejection be withdrawn.

With regard to the remaining claims, these claims depend from independent claim 1 and are also allowable by virtue of their dependence upon an allowable base claim.

Claims 1-7 and 9-15 stand rejected under 35 USC 102(e) as being anticipated by Maddux (USPPA 2002/0124245).

Applicant respectfully disagrees with the examiner's reason for rejecting the claims. However, the claims have been amended to more clearly state the invention claimed. More specifically, the independent claims have been amended to recite that the process for accessing the native utilities is based on at least one parameter that identifies the location of the application prior to the application being packaged, identifies where the application is to be placed after it has been packaged, identifies a name for the application, identifies an identifier used by an installation utility in order to identify the application for use by the installation utility, specifies an identifier unique to the at least one operating system and identifies the particular version of the application that is to be packaged. No new matter has been added. Support for the amendment may be found in the cancelled dependent claims 2-6. Although, claims 2-6 were rejected citing the same reference used in rejecting independent claim 1, it will be shown that claim 1, as amended, is not anticipated by the cited reference. Similarly, claim 11 has been amended to include the subject matter of cancelled claims 12-15.

Maddux discloses a method and apparatus for advance software deployment. The method allows for the deployment of complex applications using native deployment routines. (See Abstract).

A claim is anticipated only if each and every element recited therein is expressly or inherently described in a single prior art reference. Maddux cannot be said to anticipate the present invention, because Maddux fails to disclose each and every element recited. More specifically Maddux fails to disclose the element "wherein the at least one parameter identifies the location of the application prior to the application being packaged, identifies where the application is to be placed after it has been packaged, identifies a name for the application, identifies an identifier used by an installation utility in order to identify the application for use by the installation utility, specifies an identifier unique to the at least one operating system and identifies the particular version of the application that is to be packaged," as is recited in the claims.

Maddux fails to disclose the parameters recited in the claims. Rather than finding the elements recited in the claims, the Office Action has selected words or phrases that match or correspond to the claim elements that are sprinkled throughout the text of the Maddux reference. For example, the Office Action rejected claim 3 for the reason that "Maddux discloses a second parameter identifying where the application is to be placed after it has been packaged (Col 5, sections 0121-0123)." However, a reading of these paragraphs teaches "it will be seen that Deployment Master is an automated, unattended solution to deploy Window NT/2000 natively. Designed from a System Administrators perspective, Deployment Master delivers a new level of service that is unmatched by any other deployment tool on the market today... Deployment Master's Console is Web based allowing you to deploy from anywhere. Because Deployment Master's central console is web based, the deployment can be securely managed from anywhere that you have internet/intranet access... Deployment Master features a state of the art N-tier Microsoft DNA architecture, DM can be distributed on a single server or on multiple servers across your network in the way that best compliments your deployment requirements. This means DM can cost effectively support from five to hundreds of thousands of PCs by adding DM servers on the tiers that need to be scaled for your deployment requirements." However, nowhere does the Maddux reference teach a "second parameter identifying where the application is to be placed after it is packaged," as is recited in the claims.

For at least this reason, applicant submits that the subject matter recited in cancelled claim 3, which in incorporated in amended claim 1 is not disclosed by Maddux. Hence,

applicant believes that the reason for the rejection has been overcome and respectfully requests that the rejection be withdrawn and the claim allowed.

With regard to the remaining independent claim, this claim recites subject matter similar to that recited in claim 1 and was rejected citing the same reference used in rejecting claim 1. Thus, the remarks made in response to the rejection of claim 1 are applicable in response to the rejection of the remaining independent claim. Hence, for the amendments made to the independent claim and for the remarks made in response to the rejection of claim 1, which are reasserted, as if in full, in response to the rejection of the remaining independent claim, it is submitted that the reason for the rejection of this claim has been overcome and the rejection can no longer be sustained. It is respectfully requested that the rejection be withdrawn and the claim allowed.

With regard to the remaining dependent claims, these claims ultimately depend from the independent claims, which have been shown to be allowable over the cited references. Accordingly, the remaining claims are also allowable by virtue of their dependence from an allowable base claim.

Claim 8 stands rejected under 35 USC 103(a) as being unpatentable over Maddux in view of Fisher (USP no. 6,038,399).

Claim 8 depends from independent claim 1, which has been shown to include subject matter not disclosed by Maddux, and Fisher provides no teaching to correct the deficiencies noted in Maddux. Accordingly, claim 8 is not rendered obvious by the references cited as the combination of Maddux and Fisher fail to disclose all of the elements claimed.

For at least this reason, applicant submits that the reason for the rejection has been overcome. Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (914) 798 8505.

Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Applicant: Derek Barrett
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Respectfully submitted,

Dated: _____11/30/05_____

_____[signature]_____
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